

TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS

PCT

RAPPORT PRÉLIMINAIRE INTERNATIONAL SUR LA BREVETABILITÉ (chapitre I du Traité de coopération en matière de brevets)

(règle 44bis du PCT)

Référence du dossier du déposant ou du mandataire AM 1996-PGR/mcm	POUR SUITE À DONNER		Voir le point 4 ci-dessous
Demande internationale no. PCT/FR2004/003097	Date du dépôt international (<i>jour/mois/année</i>) 02 December 2004 (02.12.2004)	Date de priorité (<i>jour/mois/année</i>) 11 December 2003 (11.12.2003)	
Classification internationale des brevets (8 ^e édition, sauf indication d'une édition antérieure) Voir les informations pertinentes dans le formulaire PCT/ISA/237			
Déposant BOSTIK S.A.			

1. Le présent rapport préliminaire international sur la brevetabilité (chapitre I) est établi par le Bureau international au nom de l'administration chargée de la recherche internationale selon la règle 44bis.1.a).																								
2. Ce RAPPORT comprend un total de 7 feuilles, y compris la présente feuille de couverture.																								
Dans les feuilles jointes, toute référence à l'opinion écrite de l'administration chargée de la recherche internationale doit être entendue, à la place, comme une référence au rapport préliminaire international sur la brevetabilité (chapitre I).																								
3. Le présent rapport contient des indications relatives aux points suivants :																								
<table> <tr> <td><input checked="" type="checkbox"/></td> <td>Cadre n° I</td> <td>Base de l'opinion</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Cadre n° II</td> <td>Priorité</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Cadre n° III</td> <td>Absence de formulation d'opinion quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Cadre n° IV</td> <td>Absence d'unité de l'invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Cadre n° V</td> <td>Déclaration motivée selon l'article 35.2) quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle; citations et explications à l'appui de cette déclaration</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Cadre n° VI</td> <td>Certains documents cités</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Cadre n° VII</td> <td>Certaines irrégularités relevées dans la demande internationale</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Cadre n° VIII</td> <td>Certaines observations relatives à la demande internationale</td> </tr> </table>	<input checked="" type="checkbox"/>	Cadre n° I	Base de l'opinion	<input checked="" type="checkbox"/>	Cadre n° II	Priorité	<input type="checkbox"/>	Cadre n° III	Absence de formulation d'opinion quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle	<input type="checkbox"/>	Cadre n° IV	Absence d'unité de l'invention	<input checked="" type="checkbox"/>	Cadre n° V	Déclaration motivée selon l'article 35.2) quant à la nouveauté, l'activité inventive et la possibilité d'application industrielle; citations et explications à l'appui de cette déclaration	<input type="checkbox"/>	Cadre n° VI	Certains documents cités	<input type="checkbox"/>	Cadre n° VII	Certaines irrégularités relevées dans la demande internationale	<input checked="" type="checkbox"/>	Cadre n° VIII	Certaines observations relatives à la demande internationale
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4. Le Bureau international communiquera le présent rapport aux offices désignés conformément aux règles 44bis.3.c) et 93bis.1 mais pas avant l'expiration du délai de 30 mois à compter de la date de priorité (règle 44bis.2), sauf si le déposant a présenté une requête expresse à cet égard en vertu de l'article 23.2).																								

Bureau international de l'OMPI 34, chemin des Colombettes 1211 Geneva 20, Switzerland no de télécopieur +41 22 338 82 70	Date d'établissement du présent rapport 29 August 2006 (29.08.2006)
Fonctionnaire autorisé Athina Nickitas-Etienne e-mail: pt04@wipo.int	

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

TRANSLATION

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)	See Form PCT/ISA/210 (sheet 2)
Applicant's or agent's file reference AM 1996-PGR/mcm		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/FR2004/003097	International filing date (day/month/year) 02.12.2004	Priority date (day/month/year) 11.12.2003	
International Patent Classification (IPC) or both national classification and IPC G08L101/10			
Applicant BOSTIK S.A.			

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input checked="" type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Box No. I	Basis of this opinion
<p>1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).</p>	
<p>2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> in written format</p> <p><input type="checkbox"/> in computer readable form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed.</p> <p><input type="checkbox"/> filed together with the international application in computer readable form.</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search.</p>	
<p>3. <input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</p>	
<p>4. Additional comments:</p>	

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Box No. II Priority

1. The following document has not yet been furnished:
 copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).
Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

WRITTEN OPINION OF THE
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	7-9	YES
	Claims	1-6, 10	NO
Inventive step (IS)	Claims	1-10	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

2. Citations and explanations:

Reference is made to the following document:

D1: EP-A-0 732 348 (SUNSTAR ENGINEERING INC)
18 September 1996 (1996-09-18)

1

Novelty, PCT Article 33(2)

Document D1, which is considered to be the prior art closest to the subject matter of claim 1, describes (the references between parentheses apply to this document):

- A moisture-curable polymer composition comprising [A] the product of the reaction of an isocyanate on a polymer having two isocyanate-reactive groups, and comprising at least 2 hydrolysable silyl groups, and [B] fine particles of acrylic copolymer, dispersed in [A] (claim 1).
- The composition can be used as a moisture-curable adhesive (example 4).
- Depending on the method of preparation of the composition, the acrylic copolymer [B] can contain hydrolysable silyl groups (page 6, line 4 - page 7, line 14) or can be free of said groups (page 6, lines 26-28).

The subject matter of claim 1 is thus not novel (PCT Article 33(2)).

Since the subject matter of claims 2 to 6 and 10 is also described in D1 (page 4, lines 1-55; page 8, lines 24-33; example 1), these claims are not novel within the meaning of PCT Article 33(2).

Claims 7 to 9, not described in D1, meet the requirements of novelty

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Box No. V **Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**
of PCT Article 33(2).

2

Inventive step, PCT Article 33(3)

The problem that the present invention is intended to solve can thus be considered to be that of:

- producing a moisture-curable adhesive having both a high tack and a long open time.

The solution to this problem, as proposed in claim 7 of the present application, is considered to involve an inventive step (PCT Article 33(3)), for the following reasons:

- in view of the documents of the prior art, D1 in particular, a person skilled in the art was not prompted to replace the acrylic polymer used in D1 with one of the polymers mentioned in claim 7.

The subject matter of dependent claim 7 is thus novel and inventive (PCT Article 33(2) and 33(3)).

The same reasoning applies to dependent claims 8 and 9, which as such also meet the requirements of novelty and inventive step of the PCT.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1

Claim 1 is not supported by the description, as required by PCT Article 6, as its scope is broader than that justified by the description.

The reasons for this are as follows: some polymers [B] which can be used according to claim 1, i.e.: polyethers, polyacrylates, polycarbonates, polyureas and polyamides, are not present in the list given on page 5 of the description.

2

The application fails to comply with the requirements of PCT Article 6 since claim 3 is not clear.

The term "obtained from other monomers", used in claim 3, is equivocal.

Its use implies that the copolymers (1), obtained from other monomers (styrene derivatives, vinyl esters or methacrylic acid), are used **in place** of the alkyl (meth)acrylate homopolymers or copolymers of claim 2(1).

This ambiguity could be lifted by replacing the expression "from ..." with "by copolymerization with ...".